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HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH: HON'BLE SHRI H.L. DATTU, C.J.

Writ Petition No.514 of 2003

Petitioner Smt. Rajwanti Devi W/o Moharsai aged about 37 years R/o Hariharpur, Vikaskhand Pratappur, Distt. Surguja.

Versus

Respondents

1. State of Chhattisgarh through the Secretary of Panchayat & Gramin Vikash, D.K.S. Bhawan Raipur
2. The Collector Ambikapur Distt. Surguja
3. SDO, Pratappur Distt. Surguja.
4. Chief Executive Officer Pratappur, Distt. Surguja.
5. Ransai S/o D.Kl. Sai aged about 30 years, R/o Hariharpur Vikashand Pratappur Distt. Surguja
6. Ravindra Singh S/o Ram Singh aged about 40 years Secretary, Gram Panchayat Hariharpur Janpad Panchayat Pratappur, Distt. Surguja.

Present: Shri V.A.Goverdhan, counsel for the petitioner.
Shri A.S.Kachhawaha, Government Advocate for the State.

ORAL ORDER
(Passed on 16th March, 2007)

The petitioner, who was working as a Sarpanch of Gram Panchayat, Hariharpur, has been removed from the service on the ground that she had misappropriated the fund of the Gram Panchayat.

(2) Learned counsel appearing for the petitioner submits that the respondents could not have removed the petitioner on the ground that she had misappropriated the fund of the Gram Panchayat without holding an enquiry, and according to the learned counsel, the action of the respondents is in violation of principles of natural justice.

(3) There is substantial merit in the contention canvassed by learned counsel for the petitioner, that a person cannot be removed from the service on the ground of misappropriation of fund without holding a proper enquiry as contemplated under Article 311 of the Constitution of India.

(4) In the instant case, the petitioner was holding the post of Sarpanch of Gram Panchayat, Hariharpur. She was removed from the post solely on the ground of misappropriation of fund of the Gram Panchayat without holding an enquiry. This action of the respondents is in violation of the principle of natural justice, which is not sustainable under the law.

(5) Accordingly, the writ petition requires to be allowed and is accordingly allowed. The impugned order passed by the respondent is set aside. However, since the term of the petitioner has come to an end, she would not be entitled for reinstatement in the post, but recovery of the fund, alleged to have been misappropriated by her, shall not be made from her without holding an enquiry. Ordered accordingly.

Sd/-
Chief Justice